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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,502	11/13/2001	Masahiko Sato	450100-03617	3958
20999	7590	07/27/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			SHANG, ANNAN Q	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/047,502	SATO ET AL.	
	Examiner	Art Unit	
	Annan Q. Shang	2623	-

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-19 and 21-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-19 and 21-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7-8, 14-19, 21-22 and 28-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tsukamoto et al (5,796,828)** in view of **Shah-Nazaroff et al (6,157,377)**.

As to claim 1, note the **Tsukamoto** reference figures 1-2, discloses controlled-access broadcasting signal receiving system and further discloses an information recording apparatus comprising:

Information recording means (Recording/Reproducing section 'R/R' 23A, col.4, lines 20-29) for recording information (broadcast video signal) in a first recording medium and information storing means (VTR-104);

Operation means (Access Controller 'AC' 28, col.4, lines 20-40) for operating unloading of the first recording medium the information recorded by the first recording means;

Unloading means (RR-23A and col.4, lines 20-29) for unloading the first recording medium based on the operation of the operation means, note that upon receiving a control signal from AC-28, RR-23A unloads the recorded video program from VTR-104; and

fee charging means (AC-28, col.6, line 47-col.7, line 38) for charging when the first recording medium is unloaded by the unloading means, note also the various payment methods for recording/reproducing methods (col.6, line 27-col.8, line 1+), in one example, anytime the user unloads the recorded video program, a fee is applied based on the number of times the user performs such functions.

Tsukamoto fails to explicitly teach a selecting means for selecting quality of the information to be stored in the first recording medium by the information recording means, where the fee charging means varies the amount of charge according to the quality selected by the selecting means.

However, note the **Shah-Nazaroff** reference figures 1-6, discloses method and apparatus for purchasing upgraded media features for programming transmissions, where a user to select an upgrade or quality of media for a fee and the upgraded media feature is provided to the entertainment system (col.2, line 18-col.3, line 1+, col.4, line 61-col.5, line 1+ and col.6, lines 15-48).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Shah-Nazaroff into the system of Tsukamoto to enable a user to select affordable service based on image quality and type of device and also permit the information provider to make optimum use of memory device characteristics as well as limiting the time during which the transmission channels were occupied.

As to claim 2, Tsukamoto further discloses where an information receiving means (Antenna 103 or Modem 106, fig.2) for receiving transmitted information

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(col.2, lines 18-57), where the information recording means records information received by the information receiving means into the first recording medium.

Claim 3 is met as previously discussed with respect to claim 1.

As to claim 4, Tsukamoto further discloses where the information reproducing means reproduces information from the a second recording medium, where the information reproducing means records information reproduced by the information reproducing means into the first recording medium (col.4, lines 20-29 and col.6, line 27-col.7, line 1+).

As to claim 5, Tsukamoto further disclose notifying means (AC-28) for notifying charging of fee when unloading operation is performed through the operating means (col.6, line 27-col.7, line 1+).

Claims 7-8 and 14 are met as previously discussed with respect to claim 1.

As to claim 15-17, the claimed "A charging method for charging a fee related to an information recording..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-2.

Claim 18 is met as previously discussed with respect to claim 4.

Claim 19 is met as previously discussed with respect to claim 5.

Claims 21-22 and 28 are met as previously discussed with respect to claim 1.

As to claims 29-31, the claimed "An information recording apparatus comprising..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-3.

Claim 32 is met as previously discussed with respect to claim 5.

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As to claims 33-35, the claimed "A charging method for charging a fee related to an information recording apparatus..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-3.

Claim 36 is met as previously discussed with respect to claim 5.

3. Claims 12-13 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tsukamoto et al (5,796,828)** in view of **Shah-Nazaroff et al (6,157,377)** as applied to claims 1 and 15 above, and further in view of **Eyer et al (6,588,015)**.

As to claim 12-13, Tsukamoto as modified by Shah-Nazaroff, fail to explicitly teach selecting to recording of commercial message along with the information, where reducing the amount of charge when recording of the commercial message is selected.

However, note the **Eyer** reference, discloses various methods of reducing fees based on a user specific preferences related to commercials or ads (col.6, lines 50-61 and col.16, line 28-col.17, line 1+).

Therefore it would have obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Eyer into the system of Tsukamoto as modified by Shah-Nazaroff to enable a user to select desirable and affordable service and for the information provide to charge an appropriate fee based on the user's preference.

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4. Claims 9-11 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tsukamoto et al (5,796,828)** in view of **Shah-Nazaroff et al (6,157,377)** as applied to claims 1 and 15 above, and further in view of **Hershtik et al (5,790,236)**.

As to claims 9-11, Tsukamoto as modified by Shah-Nazaroff, fail to explicitly teach where the quality of the information is based on number of languages, audio format and region code.

However, **Hershtik** teaches processing movies based on frame characteristics of the language and audio format, such as French, German, Italian, English, etc., all of which includes its region code (col.4, lines 50-65, col.6, line 61-col.7, line 55 and col.14, lines 31-67).

Therefore it would have obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching Hershtik into the system of Tsukamoto as modified by Shah-Nazaroff in order to process image quality based on the language, audio and region code as selected by a user and for the information provider to charge a fee accordingly.

Claims 23-25 are met as previously discussed with respect to claims 9-11.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 7-19 and 21-36 have been considered but are moot in view of the new ground(s) of rejection. The amendment to all the independent claims necessitated the new ground(s) of rejection discussed above. This office action is made final.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nagashima et al (6,434,746) disclose accounting in an image transmission system based on a transmission mode and an accounting mode based on the transmission mode.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang**

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whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA)** or **571-272-1000**.



Annan Q. Shang



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